

DECLARATION



#3
18608-001910

As a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **ANNULOTOMY CLOSURE DEVICE** the specification of which was filed on September 14, 2000 as Application No. 09/663,250.

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56. I claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

Application No.	Filing Date
60/154,969	September 20, 1999

Full Name of Inventor 1:	Last Name: MATSUURA	First Name: DAVID	Middle Name or Initial: G.
Residence & Citizenship:	City: Encinitas	State/Foreign Country: California	Country of Citizenship: United States
Post Office Address:	Post Office Address: 859 Summersong Court	City: Encinitas	State/Country: California Postal Code: 92024
Full Name of Inventor 2:	Last Name: GILLESPIE	First Name: WALTER	Middle Name or Initial: D.
Residence & Citizenship:	City: La Mesa	State/Foreign Country: California	Country of Citizenship: United States
Post Office Address:	Post Office Address: 8652 Hayes Street	City: La Mesa	State/Country: California Postal Code: 91941
Full Name of Inventor 3:	Last Name: MARINO	First Name: JAMES	Middle Name or Initial: F.
Residence & Citizenship:	City: La Jolla	State/Foreign Country: California	Country of Citizenship: United States
Post Office Address:	Post Office Address: 2620 St. Tropez Place	City: La Jolla	State/Country: California Postal Code: 92037
Full Name of Inventor 4:	Last Name: PASTORE	First Name: SELISE	Middle Name or Initial: M.
Residence & Citizenship:	City: San Diego	State/Foreign Country: California	Country of Citizenship: United States
Post Office Address:	Post Office Address: 1837 Spalding place	City: San Diego	State/Country: California Postal Code: 92116

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor 1 DAVID G. MATSUURA	Signature of Inventor 2 WALTER D. GILLESPIE	Signature of Inventor 3 JAMES F. MARINO
Date 11/7/00	Date 11/7/00	Date 11/6/00
Signature of Inventor 4 SELISE M. PASTORE		
Date 11/7/00		

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) & 1.27(c)) - SMALL BUSINESS CONCERN

Applicant or Patentee: DAVID G. MATSUURA et al.
 Application or Patent No.: 09/663,250
 Filed or Issued: September 14, 2000
 Title: ANNULOTOMY CLOSURE DEVICE

I hereby declare that I am:

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below.

Name of Small Business Concern: NuVasive, Inc.
 Address of Small Business Concern: 10065 Old Grove Road
San Diego, CA 92131

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled ANNULOTOMY CLOSURE DEVICE by inventor(s) DAVID G. MATSUURA, WALTER D. GILLESPIE, JAMES F. MARINO, SELISE M. PASTORE described in:

- ☐ the specification filed herewith;
☒ Application No. 09/663,250, filed September 14, 2000;
☐ Patent No. _____, issued _____.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern that would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

Name: _____
 Address: _____
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Name: _____
 Address: _____
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Person Signing: STEVE MCBOWAN
 Title of Person if Other than Owner: _____
 Address of Person Signing: 10065 Old Grove Road
San Diego, CA 92131

Signature: [Signature] Date: 11/3/00



18608-001910

POWER OF ATTORNEY BY ASSIGNEE

NUVASIVE, INC., 10065 Old Grove Road, San Diego, CA 9213194086,
address, is the Assignee of the invention entitled:

ANNULOTOMY CLOSURE DEVICE

The specification of which was filed on September 14, 2000 Application No.
09/663,250.

The Assignment accompanying this Power of Attorney (or filed concurrently herewith under separate cover to the attention of the Assignment Branch) has been reviewed by the undersigned. The undersigned certifies that to the best of the undersigned's knowledge and belief, title is in the Assignee. The undersigned (whose title is supplied below) is empowered to act on behalf of the Assignee.

Assignee hereby appoints the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

<u>Name</u>	<u>Reg. No.</u>	<u>Name</u>	<u>Reg. No.</u>
Aka, Gary T.	29,038	Heckadon, David R.	Granted Limited Recognition under 37 CFR §10.9(b)
Apple, Randolph T.	36,429		
Barrish, Mark D.	36,443	Heslin, James M.	29,541
Colwell, Robert C.	27,431	Liebeschuetz, Joe	37,505
Dow, Karen B.	29,684	Slone, David N.	28,572
Gibby, Darin J.	38,464	Smith, William M.	30,223
Hann, James F.	29,719		
Haughey, Paul C.	31,836	Wong, Craig P.	45,231

Send Correspondence to:
James M. Heslin
TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111-3834

Direct Telephone Calls to:
David R. Heckadon,
Granted Limited Recognition
under 37 CFR §10.9(b)
650/326-2400

NUVASIVE, INC.

Date: 11/3/00By: [Signature]Title: Chief Financial
Officer